

Town of Superior
Regular Council Meeting
Thursday, July 2, 2009-7:00 p.m.
Superior Senior Center
360 W. Main Street, Superior, AZ 85173

Call to Order

The meeting was brought to order by Mayor Michael Hing at 7:04 p.m.

Salute to the Flag

Mayor Hing led the Council, staff, and audience in the Pledge of Allegiance.

Opening Prayer

Mayor Hing led the Council, staff, and audience in an opening prayer.

Roll Call

Council Members Present: Mayor Michael Hing, Vice Mayor Olga Lopez, Council Member Hank Gutierrez, Council Member Lynn Heglie, Council Member Soyla Peralta, and Council Member David Pfohl

Council Members Absent: Council Member Gilbert Aguilar
Mayor Hing declared a quorum and the meeting began.

Consent Agenda

Council Member Pfohl asked for clarification on item number five regarding the Pinal-Gila Amendment, and Ms. Melanie Oliver clarified that the Amendment would be increasing the funds to be received from Pinal-Gila by \$2000 from stimulus funds.

Council Member Pfohl also asked about item number nine which stated that the street would be closed for the Fourth of July celebration until 11:00 a.m. Ms. Oliver stated that this was a typo and that the correct end time of the street closure would be 11:00 p.m.

Council Member Gutierrez asked about the Personnel Policy in item number eight, and commented that it is quite extensive. Ms. Oliver stated that the changes to the policy were first brought forth in February, and that staff has spent many hours reviewing and adjusting the policy. It was also presented to the Council for review, and no comments were received.

Mayor Hing clarified that item number seven would reappoint Larry Bravo as Judge of the Town of Superior's Magistrate Court. He asked Judge Bravo for

comment. Judge Bravo pointed out the change in title to that of Presiding Magistrate Judge, which allows him to appoint another judge to preside over a case should there be a conflict of interest.

Council Member Soyla Peralta moved to approve the Consent Agenda. Council Member Pfohl seconded the motion. The motion passed unanimously.

Communication

Mayor's Report-

Mayor Hing reported on his trip to Washington D.C. He and members of Resolution Copper were able to deliver rebuttal to the Senate testimony against the land exchange. He noted that even though it is moving slowly, the fact that there are bills being worked in both the House and the Senate is proof that the land exchange is further along than it has been in the past. He praised Representative Ann Kirkpatrick for her work on this bill.

Manager's Report-

Ms. Oliver introduced Workforce Investment Act workers Hannah Wagar, and Amber Hansen employed for the summer at the Town Hall. Mr. Jed Lant introduced Alex Romero and Alfredo Garza who are working in the Public Works Department. Both Ms. Wagar and Mr. Romero approached the podium and commented on what they are doing to help the Town's staff. Mayor Hing asked Ms. Oliver to clarify how the program works. She explained that the program is administered through CAAG, and the students are paid a wage through the program for working for the Town. She stated that the students have been a great help. Council Member Heglie asked if there is an application process, to which Ms. Oliver replied yes.

Parks and Recreation Report-

Director Barbara Arriola briefed the Council and audience on the events planned for the Fourth of July celebration. She stated that she has worked hard to involve the kids in the community in the event planning. She gave a brief timeline for the day that would kick off at 2:30 p.m. with a Mud Bowl. Events would include a DJ, karaoke, performances by the local dance troupe and karate class, food and drinks for sale, and the event would conclude with fireworks beginning at 8:30 p.m.

Public Hearing

Vice Mayor Lopez made a motion to move in a public hearing. The motion was seconded by Council Member Heglie and approved unanimously.

Public Safety Director Lou Digirolamo gave an overview of the proposed

ordinances to be discussed in the hearing. He stated that there is a nationwide effort to curb underage drinking and unruly gatherings. The proposed ordinances would add two new sections to the Town Code. The first would strengthen prevention efforts and control of underage drinking. Mayor Hing asked if there is a current Town ordinance that addresses this subject. Chief Digirolamo explained that there is an ordinance against underage drinking; however, it only allows for discipline of the individual doing the drinking. This new ordinance would allow for the parties responsible for providing the alcohol and/or venue to be penalized also.

Chief Digirolamo then introduced the second part of ordinance, pertaining to unruly gatherings. He explained that in order for this ordinance to be used, the police would have to first receive a complaint from a citizen. The key to this ordinance would be that it could prohibit subsequent parties. If a property were so deemed, it would allow for the restriction of parties for 180 days. He explained that he felt this would allow the police department to show citizens that the police are responsive to their complaints.

Council Member Pfohl asked if this ordinance would allow for an automatic process. Chief Digirolamo reiterated that there would have to be a complaint to trigger the process. Council Member Heglie asked if the renter or property owner would receive the citation. Chief Digirolamo stated that the renter would be responsible; however, the property owner would also be notified.

Discussion followed where both Mayor Hing and Vice Mayor Lopez voiced their concerns over the unruly gathering portion of the ordinance. Mayor Hing noted that the ordinance suggests five people as the minimum number of the gathering and asked why that is the case. Chief Digirolamo answered that this is consistent among other cities/towns that have adopted the ordinance. There was a general consensus that the underage drinking ordinance is good and necessary; however, the social gathering ordinance needed to be further examined. Chief Digirolamo reminded the Council and audience that he pushes his officers to “enforce the spirit of law, not the letter of the law.”

Chief Digirolamo introduced Rodolfo XXXXX of Tres Pueblos Project, who spoke to the strength of the ordinance. He cited a reduction in domestic violence, DUI's and violent assaults in Tucson where the ordinance originated. He also commented that it would benefit the County to have a uniform ordinance that could be recognized by people visiting family and friends in communities other than their own. He reiterated that it is a nationwide movement—24 different states now have social host ordinances and the Pinal County Supervisors and Sheriff are all in support of the ordinance.

Council Member Gutierrez commented that this ordinance is only going to give the

police “more teeth,” and also give parents another reason to say no when their children pressure them to host a party for underage drinkers. He has faith that the police would use discretion and not abuse the unruly gathering ordinance.

Mayor Hing then entertained public comment. Mr. Jim Gilbert disapproved of the wording of the ordinance. He alleged that at least one liquor store in town allows anyone to purchase liquor regardless of age. He doesn’t feel as though this ordinance addresses the true problem, which is parents and others providing the alcohol to the children in the first place. He challenges the Council to write an ordinance that will address the root of the problem.

Mr. Manuel Ortega reminded everyone present that “Mexicans have a lot of parties.” He was particularly critical of the owner’s right to a hearing after the violation. He said even though property owners are given the chance to appeal, the police breaking it up would still ruin the party. He urges the Council to think about the ordinance, not act on it immediately.

Judge Larry Bravo agreed that someone needs to be held responsible. He agrees that the stores selling the alcohol should be addressed. However, this week alone, he has seen five citations for underage drinking, and one of the minors is facing him for the fifth time. He has just seen a new bracelet introduced that will allow for the constant monitoring of a person’s alcohol level, and intends to put it into use in the most severe cases.

Council Member Pfohl asked what the penalty is for minor consumption. Judge Bravo answered that it is a misdemeanor; however, this ordinance would allow the penalty to be increased to a Class 1 misdemeanor, which is a steeper offense. Mayor Hing asked for clarification of the classes of misdemeanors. Chief Digirolamo answered that there are three classes, with Class 1 carrying the highest penalty.

Mr. Merlin Gindlesperger commented that he has never had a problem of underage people partying at his hotel; however, he agrees that there are people that “need the extra out” to say no to hosting underage parties.

Mayor Hing commented that he does see where the ordinance attacks responsible parties, and he is supportive of that; however, he sees a huge difference between the underage drinking ordinance and the unruly gathering ordinance and thinks they should be separate. He also agreed that repeat offenders should be penalized. Council Member Pfohl said that he agrees with Council Member Gutierrez’s previous comments. He particularly thinks it is important to notify homeowners if their renters are hosting parties.

Officer Paul Licano from the Superior Substance Abuse Coalition spoke in support of the ordinance. He introduced a survey that was performed by Adelante Juntos with anonymous high school students. Ms. Hanna Wagar, the youth co-chair of the Coalition, read some of the survey questions and answers the Coalition thought would be of interest to the Council. She concluded by saying that she supports the ordinance because she also feels that it “give parents a way out.”

Mr. Jonathan Kolton stated that he thinks this ordinance gives a tool to teach people to be responsible for their actions. He commended his neighbor for hosting responsible parties, and feels he could set an example for other citizens.

Mr. Manuel Ortega urged the Council to “not give the police too much power.” He is concerned that some police officers might use the ordinance to harass citizens that they don’t like. He suggested that Chief Digirolamo should be surveyed to see which houses he thinks are problem houses.

Council Member Gutierrez commented that this survey proves that kids are asking us to help them and their parents. He would like to see a sunset ordinance approved by the County, because he feels if this ordinance is adopted by the Town it will most likely push more people out of city limits to party in the desert. The Town will really need partnership from the County to combat the problem.

Vice Mayor Lopez made a motion to move out of the public hearing. Council Member Peralta seconded. The motion passed unanimously. Mayor Hing called a five-minute recess.

H. Business. Possible Discussion and/or action on the following:

Mayor Hing entertained a motion to move agenda item eight before agenda item one. Council Member Heglie made the motion, Council Member Peralta seconded, and it was passed unanimously.

Discuss/Approve/Reject addendum to Ordinance No. 79

Ms. Oliver introduced Willdan representative Nick Bernoski who explained that the item would be amending Ordinance No. 79 passed in 2003 to strike the 60-day limit on construction of approximately three acres located on the North side of US 60 on both sides of Church Avenue. Council Member Pfohl moved to strike the 60-day limit cited in Ordinance No. 79 as presented in the Council packet. Council Member Heglie seconded. Town Attorney Michael Beers requested the motion read that Ordinance No. 79 be amended. Council Member Pfohl obliged. At Mayor Hing’s request, Ms. Oliver read the proposed amendment to Ordinance No. 79 in its entirety. The motion passed unanimously.

Discuss/Approve/Reject the costs associated with the abatement of the property at 957 S. Stone Ave

Mayor Hing asked Ms. Oliver to give a rundown of the costs associated with the abatement of the property. She did so, and reminded the Council that the item had previously been tabled so that the staff could research alternatives to charging the property owner with the stated expenses; however, she reports there are no alternatives. Discussion followed as to whether or not all costs including staff time were included in the cost proposal. Mayor Hing requested that a full cost detail be compiled. Mr. Jim Green of the public asked how many bids were accepted as he felt the job could have done with less expense. Ms. Oliver responded that it was not necessary to accept bids as the Town performed the work in-house. Council Member Pfohl moved to invoice the property owner for the amount of the abatement. Ms. Oliver asked for an amended motion. Council Member Pfohl obliged and moved to place a lien for the full amount of the costs associated with the abatement on the property. Council Member Gutierrez seconded the motion and it passed unanimously.

Discuss/Approve/Reject the Town of Superior providing refuse collection and disposal within Town limits

Public Works Supervisor Jed Lant presented the staff's proposal for in-house refuse collection. He presented a spreadsheet to the Council that was amended from the previous proposal to include a "worst-case scenario." Council Member Gutierrez asked if the proposed revenue included an allowance for delinquent accounts. Finance Director Aja DeZeeuw and Ms. Oliver stated that unfortunately this number does not account for delinquent accounts, rather payment in full by all citizens. Council Member Gutierrez questioned the background of the proposal and its preparation. Ms. Oliver answered that there was input from herself and Ms. DeZeeuw, as well as Mr. Lant.

Council Member Heglie asked if the Town has a contract with Allied Waste, the current refuse provider. Ms. Oliver said the contract was not renewed; therefore, the service is on a month to month basis.

Ms. DeZeeuw commented that the numbers were carefully researched, and the staff has received assistance from many resources, including other cities and people familiar with the refuse business.

Council Member Pfohl suggested that the Council should hold a work session to discuss the subject further and also receive input from community members. After further discussion, Council Member Pfohl moved to table the proposal of refuse collection and disposal by the Town of Superior. Council Member Gutierrez seconded and the motion carried unanimously.

Discuss/Approve/Reject Resolution No 502

Ms. Oliver read Resolution No. 502 by title only. Mayor Hing asked who would bear the expense for the election. Ms. Oliver stated that the Town and the Superior School District would share the burden of cost for the election. Vice Mayor Lopez moved to approve Resolution No. 502. Council Member Heglie seconded, and the motion passed unanimously.

Discuss/Approve/Reject Resolution No 504

Chief Digirolamo read Resolution No. 504 by title only. He discussed the possible expense for offering Workers' Compensation insurance to the Police Department Volunteers. Council Member Heglie moved to approve Resolution No. 504. Vice Mayor Lopez seconded and the motion carried unanimously.

Discuss/Approve/Reject Resolution No 505

Ms. Oliver read Resolution No. 505 by title only. There was no discussion. Council Member Peralta moved to approve Resolution No. 505. Vice Mayor Lopez seconded and the motion passed unanimously.

Discuss/Approve/Reject Ordinance No 105

Mayor Hing commented that a work session should be put together regarding adding Chapters 10-1-22 and 10-1-23 of the Superior Town Code. He reiterated that there is a consensus that underage drinking needs to be stopped, but there is a "gray area" in the unruly gathering section that needs to be clarified. Vice Mayor Lopez moved to table the Ordinance 105 until a work session could be put together on the subject. Council Member Heglie seconded. Council Member Pfohl asked if there could be a joint work session regarding the refuse proposal and the social host ordinance. Ms. Oliver requested that there be two separate work sessions because both items are extremely important. The vote was taken. The motion carried with five yes votes by Mayor Hing, Vice Mayor Lopez, Council Member Heglie, Council Member Peralta, and Council Member Pfohl, and one no vote by Council Member Gutierrez.

Discuss/Approve/Reject Ordinance No 106

Council Member Heglie moved to table Ordinance 106. There was discussion that this ordinance was unrelated to the social host ordinance previously tabled. Council Member Heglie withdrew his motion to table Ordinance 106. After staff discussion, staff recommended tabling Ordinance 106 to be discussed at the work session with Ordinance 105. Vice Mayor Lopez moved to table Ordinance 106. Council Member Peralta seconded, and the motion carried unanimously.

Mayor Hing requested a work session be held on Thursday, July 9, 2009 at 6:00

p.m. to discuss the refuse proposal.

Call to the Public

Mr. Jim Gilbert-

Mr. Gilbert feels as though the sound system in the meeting room is “a joke.” He suggests the Town sell it and purchase one that works. He praises the city manager for being easy to work with and respectful; however, he feels as though she spends too much of her time doing secretarial duties, and she is too talented for that. He also praises the Police Department. The Chief and Lieutenant are great, however, he feels the Fire Department still lacks a leader and needs training. He also feels the last four years some Council Members have shown misjustice, and he has a great deal of faith that this Council will do better. However, he calls for Council Member Gutierrez’s resignation or challenges that he will face a recall election.

Mr. Michael Sullivan-

Mr. Sullivan is currently contracted by the Town of Miami collecting their trash. He proposes that he could collect and dispose of the Town’s refuse for a cost of \$175,000 per year. He is very familiar with how Allied Waste operates, and feels as though they are overcharging the Town. He offered his assistance with questions on how collections work, and also introduced his son, whom he brought so that he could show him the way Town Council meetings operate.

Mr. Manuel Ortega-

Mr. Ortega feels the Town is heading in the right direction with garbage collection. He also thinks it is “very good” that the Council is taking a look at the social host ordinances instead of just jumping in.

Executive Session

There were no executive items to be discussed.

In Public Session

Council Comments

Council Member Gutierrez-

Agrees with Mr. Gilbert that the Town Manager needs help. The Town Manager needs to focus on direct business with the community. He thanked the staff for working so hard to put the refuse proposal together, but just wants to be sure the Council does their due diligence.

Council Member Pfohl-

Commends the Town staff on the work they due, and wishes everyone and happy

and very safe Fourth of July.

Council Member Heglie-

Wishes everyone a happy Fourth of July and warns everyone to stay away from assemblances of five or more people.

Council Member Peralta-

Comments to Chief Digirolamo that she sees no problem with the social host ordinances and thinks they should have passed at tonight's meeting.

Vice Mayor Lopez-

Appreciates the staff's time on everything and patience while the Council asks just a few more questions. She hopes all will enjoy the festivities Ms. Arriola has worked so hard to put together. She also announces that the Superior 9 and 10-year old Little League All-stars are still in the All-star tournament and that the girls All-stars start playing next week.

Mayor Hing-

Wishes everyone a happy Fourth of July and reminds everyone about the July 9th work session

Adjournment

Vice Mayor Lopez moved to adjourn the meeting. Council Member Pfohl seconded. The motion passed unanimously and the meeting was adjourned at 9:57 p.m.